

## REMARKS

### *Status of the Claims*

Claims 1-12 and 19-21 are amended and claims 1-12 and 18-21 are pending. Claims 13-17 are withdrawn from consideration.

### *Follow up to Previously Entered Amendment*

Applicants note that an amendment in response to the Official Action mailed on January 23, 2008 was provided on July 23, 2008 and is indicated in the United States Patent and Trademark Office's PAIR System as being part of the image file wrapper and therefore Applicants believe the response to have been entered and part of the record. Applicants request to be notified by the Examiner if they are incorrect as to the status of the July 23, 2008 amendment. Applicants further note the following discussion was provided in the July 23, 2008 amendment and is presented below for Examiner's consideration.

### *Interview Summary*

The undersigned Applicants' representative would like to thank Examiner Eppes for his helpful comments and suggestions during the telephone interview conducted with Applicants' representative, Mr. Keith Montgomery, on March 22, 2008. Mr. Montgomery left the undersigned's law firm shortly after the interview. The following summary is taken from the notes of Mr. Montgomery. The Examiner is invited to supplement or modify the summary to the extent the Examiner may deem such to be necessary.

Pursuant to 37 C.F.R. § 1.133(b), the following description is submitted as a complete written statement of the reasons presented at the interview as warranting favorable action. The following statement is intended to comply with the requirements of MPEP § 713.04 and expressly sets forth: (A) a brief description of the nature any exhibit shown or any demonstration conducted; (B) identification of the claims discussed; (C) identification of specific prior art discussed; (D) identification of the principal proposed amendments of a substantive nature discussed; (E) the general thrust of the principal arguments; and (F) a

general indication of any other pertinent matters; and (G) the general results or outcome of the interview, if appropriate.

(A) No exhibits were shown or demonstrations conducted.

(B) The pending claims were discussed generally, and independent claims 1 and 18 were discussed in particular.

(C) US Pat. 6260,315 to *Smith* and particularly US Pat. 5,651,734 to *Morris* were discussed.

(D) No proposed amendments were discussed.

(E) In response to the rejection under 35 U.S.C. § 103(a) based on *Smith* and *Morris*, Applicants' representative argued that Fig. 4 of *Morris* does not in fact show a score or tear line extending laterally across the top panel as claimed in claims 1 and 18. Rather, the marking in Fig. 4 that the Office Action relies upon as showing such a score line is merely a drafting error or a draftsman's artifact intended to delineate the foreground and more detailed part of the drawing from the background and less detailed part. Applicants' representative pointed out that considering the marking in Fig. 4 to be a score or tear line extending laterally across the top panel is inconsistent with the specification of *Morris* and with the other drawings, including Fig. 3. The Examiner indicated that, in his opinion, the marking in Fig. 4 could be construed as a separation line extending across the entire panel, although the Examiner recognized that it could be a drafting error or artifact. The Examiner indicated that evidence of commercial success may be persuasive in the present application. The Examiner further indicated that an alternative rejection might be that it would have been obvious to extend the cut lines 24 across laterally across the top panel.

(F) No other pertinent matters were discussed.

(G) It was agreed that a response would be submitted for Examiner's consideration, and that Examiner would further consider the rejections and cited art upon receiving the response.

### ***Priority***

In response to the objection to the priority claim as being non-compliant, Applicants state, as was stated in the previous Amendment, that the applications 09/825,0333 and

09/412,909 cited in the Office Action are not, in fact, claimed as priority applications for the present application. Instead, the patents issuing from these applications are cited as related applications to which Applicants make no priority claim, but that are merely incorporated by reference. Applicants' therefore believe that the "Reference to Related Applications" section is appropriate and that the actual claim to priority of application numbers 10/421,193 and 10/293,376 is compliant and proper. Nevertheless, in order to expedite prosecution of the present application, the offending language has now been removed from the "Reference to Related Applications" section of the application and placed instead in the "Summary of the Invention" section. It is therefore believed that the stated priority objections are now clearly moot and should be withdrawn.

#### ***Claim Rejections – 35 U.S.C. 102***

Claims 1 and 2 have been rejected under 35 USC §102(b) as being anticipated by *Smith* (6,260,315). The Examiner has taken the fundamental position in these rejections that the "score line(s)" recited in these claims are taught in *Smith* by virtue of the "cut lines" A, B, or C employed by *Smith* to provide guides for cutting the *Smith* ridge vent to length with a knife. Applicants have considered this position carefully. However, the position is sincerely believed to be misguided and reconsideration of the rejections of these claims is solicited in view of the following discussion.

The Official Action states that *Smith* teaches "at least one score line A, B, or C extending laterally across the top panel (Col. 11 ¶ 2)."<sup>1</sup> Despite this statement, however, nowhere does *Smith* teach "score lines" as is stated in the Official Action. The terms "score lines" and "score" do not appear in the *Smith* patent. Lines A, B, and C in *Smith* are referred to as "cut lines" or simply "lines" and are described only as visual cutting guides. The position that *Smith* teaches the claimed score lines appears, perhaps, to have been derived by

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<sup>1</sup> While Col. 11 ¶ 2 of *Smith* has been cited as supporting this position, a review of that citation reveals that A, B, and C are referred to merely as "lines" and "cut lines" and not as the score lines as stated in the Official Action. Further, this citation explicitly states that these lines are "moldedly provided on the top side 34 of top panel portion 22 as shown in Fig. 5 for guiding the cutting of the roll." (emphasis added). The claims, in contrast, define the "score line" as being configured to permit manual separation of the top panel along the score line. Col. 11 ¶ 2 of *Smith* simply teaches a visual guide line for a cutting knife, and clearly does not teach a score line configured as claimed in claims 1 and 2 to permit manual separation along the score line.

the Examiner upon review of the *Smith* drawings. A more thorough review of *Smith* reveals, however, that what the Examiner has interpreted as “score lines” actually are only visual cutting guidelines, which are shown in Figs. 4 and 5 as phantom or hidden outlines merely because they are not visible from the bottom side of the ridge vent.

*“Likewise, lines A, B, and C are shown in hidden outline in Fig. 4 to show their placement relative to transverse walls 98, 100, and 102, although hidden lines A, B, and C are not visible when the roof ridge vent is viewed from the underside as shown in Fig. 4.”* (Column 11, line 15, et seq.)

What *Smith* does teach is a plurality of guide lines A, B, and C on the top side of the top panel *“for guiding the cutting of the roll.”* (Col. 11, line 9 et seq.). When the roll is to be cut, it should be cut along a cut guide line.....(Col. 11, line 21 et seq.). The remaining portion should be transversely cut at the next guide line B (Co. 11, line 27 et seq.). It thus is clear upon judicious review of *Smith* that what is contemplated by *Smith* is merely the old method of cutting the ridge vent at the end of a roof with a knife. *Smith* merely provides some lines on the top of the ridge vent that serve as “guides” indicating to a user the suggested locations where the ridge vent should be so cut. As discussed in detail in the Background section of the present application, the old method of cutting ridge vents in this way is plagued with inherent problems and shortcomings. *Smith* teaches nothing new in this regard.

In contrast to the teaching of *Smith*, Applicants’ invention, as claimed in claims 1 and 2 is a ridge vent for installation along the ridge of a roof to provide attic ventilation. The ridge vent comprises an elongated flexible top panel having a central portions and edges. Wind baffles extend along the top panel outboard of the edges and define openings between the edges and the wind baffles. A plurality of ribs span the openings. At least one *score line* extends laterally across the top panel. The score line is configured to permit *manual separation* of the top panel along the score line. What is meant by the terms “score line” (also

referred to as “tear lines” in the specification and some of the claims) and “manual separation” or tearing is illuminated at various locations in the specification as follows:

*The tear lines, which are lines of relative weakness, are designed to allow the ridge vent to be selectively separated through a manual tearing action by an installer. (pg 10, ln 16)*

*In one configuration, the tear lines are defined by score lines of decreased thickness molded into and extending across the vent. (pg 10, ln19)*

*When the end of the roof ridge is reached, a tear line that is near where the vent should terminate is selected and the vent is separated simply by being manually torn along the tear line (pg 11, ln 6)*

*The ridge vent also incorporates features allowing it to be manually torn or separated at the end of a roof ridge, thus eliminating the need for measuring, cutting, and plugging the ridge vent at its end. (pg 12, ln 11)*

*Fig. 8 is a perspective view of the ridge vent section of Fig. 7 showing the vent being separated by tearing action along the tear line. (pg 13, ln 20)*

*The ridge vent 11 is formed with at least one tear line extending transversely across the vent for manual separation of the ridge vent along the tear line. In general, the tear line is a line of relative weakness extending across the ridge vent and may take on any of a number of configurations. In Fig. 7, two possible types of tear line configurations are illustrated and are considered by the inventors to be alternative best modes of carrying out the invention. Specifically, tear line 46 is formed by a series of perforations 48 formed in the top panel 12 and the perforations 48 are aligned with each other across the width of the panel. Together, the aligned perforations form a line of relative weakness along which the panel can be separated, as detailed below. As an alternative to aligned perforations, tear line 49 is an example of a tear line formed by a score 49 molded into the plastic of the ridge vent. The score 49 forms a line of relatively thinner plastic and thus defines the line of relative weakness along which the ridge vent may be separated. (pg 25, ln 7)*

*Fig. 8 illustrates the manual tearing or separation of a ridge vent along a tear line according to the invention. In practice, the separation is accomplished by grasping one of the edges of the ridge vent in each hand with one hand on either side of a tear line. One section of the vent is then pulled back as indicated by arrows 53. As this section is pulled back, the ridge vent progressively tears or separates along the tear line, which, in Fig. 8, is the tear line 46 formed by aligned perforations 48. (pg 26, ln 17)*

*The vent is then grasped as described above and the excess portion is simply torn away. (pg 29, ln 22)*

*All of this is accomplished quickly, accurately, and easily without the need to measure and mark the ridge vent, and without requiring any knife or other tools whatsoever. (Pg 30, ln 2)*

*Indeed, any feature that allows the ridge vent to be separated manually across its length is considered to be within the scope of the definition of "tear lines." (pg 36, ln 14)*

From the forgoing excerpts from the specification, it is clear that the term "score line" and the concept of "manual separation along a score line" or tear line is well defined. For instance, it is clear that a "score line" is a line of relative weakness extending laterally across the top panel of the ridge vent that allows for "manual separation" of the event along the score line. In turn, "manual" separation means that the vent can be torn along a score line by grasping the vent in the hands and pulling back the section on one side of a score line relative to the other section, resulting in tearing or separation of the vent along the score line. It is equally clear from the specification that manual separation does not include the use of a knife to accomplish the task.

With the forgoing in mind, it is clear that *Smith* utterly fails to disclose, teach, or suggest the claimed invention. Nowhere does *Smith* suggest a ridge vent with a "score line" configured to permit "manual separation" of the vent top panel along the score line as claimed. At best, *Smith* only discloses the concept of providing some sort of guide line on the surface of the vent for guiding a knife used to cut the vent in the traditional manner. For all the reasons discussed in the background section of the application, this old cutting methodology is fraught with problems, including sloppy cutting, the danger of injury, and the need to carry a tool for cutting the ridge vent. The present invention represents a significant advance in the installation of ridge vent. No tools are required, separating the vent is accurate and straight, and installation speed is enhanced significantly.

***Claim Rejections - 35 U.S.C. § 103***

Claims 1-4, 7-10, 18 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Smith* (U.S. Pat. 5,772,502) in view of *Morris* (U.S. Pat. 5,651,734). Applicants respectfully traverse.

The Examiner states that *Smith* discloses a ridge vent having an elongated top panel with a central portion 36 and edges 24 and 26, wind baffles 82 and 84, and a plurality of ribs 66. *Smith* fails to disclose “at least one score line” configured to “permit manual separation of said top panel” as recited in claim 1, or a “tear line formed in [a] top panel at a predetermined longitudinal location” as recited in claim 18. The Examiner addresses this deficiency by stating that *Morris* discloses a ridge vent with at least one score line disclosed as a “cut line” 24. The Examiner further states that it would have been obvious to include such a cut line in *Smith*’s ridge vent to render the ridge vent easier to install to a desired length. Applicants traverse and request reconsideration in view of the following discussions.

*Smith* discloses a shingle-over ridge vent comprising a top panel portion 22 with a flexible midsection 36. Support means 52 support the top panel portion 22 above the roof 42. Each roof vent 20 includes a first end wall portion 110 and a second end wall portion 112 located at opposite ends of the roof vent 20. The end wall portions 110, 112 include flexible pleated midportions 114, 116, respectively, that flex inwardly when the ridge vent is placed on the roof 42. A first male coacting joining means 124 is located at one end of the ridge vent 20, and a second, female coacting joining means 126 is located at the opposite end. When a first ridge vent 20 is laid end-to-end with a second ridge vent, the male joining means 124 of the first ridge vent engages the female joining means 126 of the second ridge vent.

*Morris* discloses a rolled ridge vent 10 with a top panel 18 disclosed as “uninterrupted” (column 3, lines 1-4). The ridge vent 10 includes, along its edges, longitudinally extending segmented portions 22 defined by spaced transverse cut lines 24.

These cut lines do *not* extend across the top panel. Instead, they extend only partially along the edges of the vent. During installation, a section of the ridge vent 10 is rolled out onto a roof, and the sides or edges of the vent 10 are sequentially separated at the cut lines 24. The resulting relatively short longitudinal edge sections 26 are then folded up beneath the top panel 18 into stacks that lift the top panel 18 above the roof. This process is repeated until the ridge vent 10 covers the length of the roof.

The Examiner states, in the Response to Arguments section of the Official Action, that “while the cut lines of *Morris* are shown extending only partially across the top panel, cut lines are also depicted traversing the entire top panel as shown in Fig. 4.” Applicants strongly disagree and urge reconsideration. The markings referred to in Fig. 4 as depicting the cut lines traversing the entire top panel are nothing more than a draftsman’s artifact. It is the draftsman’s marking that delineates the foreground portion of the drawing, which shows more detail, from the background portion of the drawing, which shows less detail. This is supported in many ways in *Morris*. For example, a close inspection of Fig. 4 reveals that the “line” referred to in the Official Action is not a line at all, but rather a series of adjacent cross-hatch markings, demonstrating that this is a draftsman’s artifact, just as are the various transverse surface texture markings behind and in front of this feature in Fig. 4 and in many of the other figures.<sup>2</sup> In addition, Fig. 3, which is a full detail top plan view of the ridge vent, clearly shows the cut lines 24 extending only across the segmented portions 22 of the ridge vent and not extending at all across the top panel between these segmented portions, as is recited in the claims of the present application. The fact that cut lines 24 extend only across the segmented portions 22 and not across the top panel is abundantly clear from the specification of *Morris*. For example, the top panel is described as extending in an “uninterrupted manner” the length of the blank 12 (Col. 3, ln. 1). Only the segmented portions 22 are described as being separated along the cut lines 24 so that the segmented portions can be accordion folded under the top panel for installation on a roof (Col. 4, ln. 5 et seq.). Further, regarding the disposition of excess roof vent at the end of an installation, the

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<sup>2</sup> Fig. 3 of *Morris*, for example, shows transverse shadow or surface texture markings as does Fig. 1. These markings clearly do not represent physical features of the ridge vent, but are merely draftsman’s artistic artifacts included to enhance the visual appearance of the drawings.



specification states that any excess length of the rolled roof vent 10 may be cut away and discarded or used on a separate section of the roof (Col. 4, ln. 37), which is inconsistent with the notion that the cut lines extend laterally across the top panel and that the panel can be manually separated along these lines as claimed. In short, nowhere in the *Morris* patent is there any support for the notion that Fig. 4 shows the cut line 24 traversing the entire top panel as stated in the Official Action and, in fact, this notion is contrary to every other drawing of *Morris* and the actual teachings of *Morris* in the specification.

In view of the forgoing, Applicants earnestly request that the Examiner review *Morris* carefully and critically, and reconsider and withdraw the position that Fig. 4 shows a cut line 24 traversing the entire top panel. It simply does not show such a thing. To the extent that such a feature may be asserted to be obvious, Applicants disagree. Cut lines 24 in the *Morris* ridge vent extend completely or almost completely through the panel material to define the “segmented” portions 22 along the edges of the vent blank. This is fine for the segmented portions, which ultimately are disposed beneath the top panel. However, such cuts and breaches are highly undesirable in the top panel for a number of reasons, including the fact that breaches in the top panel that can result in a leak into the attic below. It cannot be considered obvious to do a thing that would destroy or degrade the intended function of a device suggested to be modified.

The Examiner alleges that it would have been obvious to include cut lines as shown in *Morris* in the ridge vent of *Smith*. *Smith*'s ridge vents 20, however, are designed to be laid end-to-end as discrete pieces. As discussed above, *Smith*'s ridge vents 20 include interacting male/female joining means 124, 126 that facilitate the end-to-end installation of the individual vents 20. As demonstrated above, the cuts 24 formed in *Morris*' vent 10 do not extend across the top panel of the *Morris* vent but instead are only clipped part way at intervals along the edges of the vent. They are used to facilitate progressive unrolling of the continuous vent 10 and, in the process, the accordion folding and sequential stacking of the sections 26 beneath the continuous top panel 18. Inclusion of such partial cuts along the edge portions of *Smith*'s vents 20 would not facilitate installation in any way, and, in fact would provide no useful

function at all. To the contrary, cutting and/or scoring the edge portions of the *Smith* ridge vents 20 as taught by *Morris* would serve only to reduce the structural rigidity of the vents, and possibly cause them to leak, thereby destroying their function. If when combined, references produce an inoperative device, the references teach away from such combination. See *Tec Air, Inc. v. Denso Mfg. Michigan Inc.*, 52 USPQ 2d 1294, 1298 (Fed. Cir. 1999) (quoting *In re Spinnoble*, 160 USPQ 237, 244 (C.C.P.A. 1969)). Accordingly, one of ordinary skill in the art would not combine the teaching of *Morris* with *Smith*.

Because *Morris*' teaching is inappropriate in the ridge vents of *Smith*, Applicants assert that the combination of *Morris* and *Smith* is improper, and respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) based on *Morris* and *Smith*.

Claims 5, 6 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Smith* in view of *Morris* as applied to claims 1-4, 7-10, 18 and 21, and further in view of *Hillstrom* (U.S. Pat. No. 6,560,906). Claims 11, 12 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Smith* in view of *Morris* as applied to claims 1-4, 7-10, 18 and 21, and further in view of *Logan et al.* (U.S. Pat. No. 5,491,936). Applicants respectfully traverse.

As discussed above, *Morris* and *Smith* are not properly combined under 35 U.S.C. § 103(a). Neither *Logan* nor *Hillstrom*, alone or in combination, cure the deficiencies of *Smith* and *Morris* in disclosing the claimed invention. *Logan* and *Hillstrom* also fail to provide teaching that suggests that the combination of *Morris* and *Smith* is proper.

Applicants accordingly respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) based on *Morris*, *Smith*, *Logan*, and/or *Hillstrom*.

***Conclusion***

In view of the foregoing remarks, Applicants respectfully submit that the various rejections of the claims as set forth in the Office Action of January 23, 2008 have been addressed and overcome.

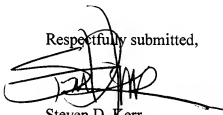
Applicants further submit that all claims are in condition for allowance and request that a Notice of Allowance be issued.

If issues may be resolved through an Examiner's Amendment, or clarified in any manner, a call to the undersigned attorney at (404) 879-2443 is courteously solicited.

The Commissioner is hereby authorized to charge any fees due, or credit any overpayment, to Deposit Account No. **09-0528**.

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Respectfully submitted,



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